

State Environmental Quality Review

**NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

**NEGATIVE DECLARATION  
for the  
PATRIOT BLUFF DEVELOPMENT**

This notice is issued pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

After review of the draft Supplemental Environmental Impact Statement (SDEIS) for the Patriot Bluff Development, the Town of New Windsor Planning Board (Planning Board), as lead agency, has determined the action described below will not have a significant environmental impact and a Final Supplemental Environmental Impact Statement will not be prepared.

**Name of Action:** Patriot Bluff Development

**SEQR Status:** Type 1 Action

**Description of Action:** Site Plan and Subdivision approvals to permit construction of a 178 unit residential development known as Patriot Bluff.

**Location:** Southwest of the intersection of Union Avenue and NY Route 32 in the Town of New Windsor, Orange County, New York. Tax parcel # Section 4, Block 2, Lot 21.23.

**Reasons Supporting This Determination:**

**I. Project History and Procedural Posture:**

The proposed action is for a proposed 178 unit residential development known as Patriot Bluff (the "Project"). The Project is one part of a Planned Unit Development ("PUD") approved by the Town of New Windsor Town Board in 1989. The PUD granted concept approval for a 100,000 square foot retail center, 500 residential units and 15,000 square feet of office space on parcels totaling 152.5 acres. The PUD was the subject of an Environmental Impact Statement (EIS) and, on November 15, 1989, the Town Board, as lead agency, issued a SEQR Findings Statement. The current Project sponsor, RPA Associates, LLC ("RPA"), acquired the PUD in 1999.<sup>1</sup> Thereafter, RPA obtained Planning Board approvals and constructed the Patriot Ridge Condominium complex and a portion of the retail center known as Patriot Plaza.

In 2004, RPA made further application to the Planning Board for a single-family

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<sup>1</sup> Approximately 55 acres of the PUD had previously been sold by the original project sponsor (Sky-Lom of New Windsor, Inc.) to the Newburgh Enlarged City School District as the site of the Heritage Junior High School.

subdivision known as "Patriots Estates Subdivision" and a condominium complex known as "Patriot Bluff Condominium Projects". On June 14, 2004 the Planning Board determined that a Supplemental Draft Environmental Impact Statement (SDEIS) must be prepared to evaluate potential significant impacts from the proposed subdivision and condominium complex relating to drainage, wetlands, sewer, water, transportation, schools and community character. A Final SEQR Scoping Document was adopted by the Planning Board on February, 2005. In 2007, RPA modified its application to eliminate the single family detached subdivision and pursue the subject 178 unit residential townhouse and/or condominium Project. Additional SEQR Scoping was undertaken and on August 9, 2007 a revised Final Scoping Document was adopted by the Planning Board.

A SDEIS was submitted to the Planning Board in September, 2008 and deemed complete on November 12, 2008. A combined public hearing on the SDEIS and the site plan and subdivision approvals was held on December 10, 2008. The SEQR public comment period concluded on January 14, 2009. No substantive comment relating to areas of environmental concern evaluated in the SDEIS was received by the Planning Board during the SEQR public comment period other than a single letter dated December 10, 2008 from the Palisades Interstate Park Commission.

The Planning Board has determined that, for the reasons detailed below and, based on advice it has received from its own legal and engineering consultants, the SDEIS demonstrates the proposed action and Project will not result in a significant environmental impact and the SEQR process may be concluded at this time. In reaching this determination the Planning Board has specifically relied on 6 NYCRR 617.9 (a) (5) (i) (b) which permits a lead agency to dispense with the preparation of a Final EIS where it has determined, on the basis of the Draft EIS and comments made thereon, that the action will not have a significant effect on the environment.

## **II. Identified Areas of Environmental Concern:**

Based on its review of RPA's application, advice it received from its various professional consultants and the conduct of public Scoping Sessions, the Planning Board identified the following areas of environmental concern to be addressed and analyzed in the SDEIS: drainage; wetlands disturbance; sewer and water supply and demand; transportation (traffic); community (schools) services and cost of education and potential changes in community character. Each of these areas of environmental concern had already been addressed in the original EIS for the PUD. However, the Planning Board required that these specific areas be reconsidered to account for changed circumstances due to the passage of time.

## **III. Analysis of Areas of Environmental Concern:**

### **A. Drainage:**

Since approval of the PUD in 1989, there have been significant changes in NYS law pertaining to the regulation of storm water discharges. To accommodate those regulatory changes, a drainage study entitled "Storm Water Management Report - Patriot Bluff Development", dated May 15, 2008 ("Management Report"), was prepared for the Project. The report was prepared in accordance with the requirements of NYSDEC General Permit 0-08-001

and the NYSDEC Stormwater Management Design Manual (2001). In addition, a Stormwater Pollution Prevention Plan (SWPPP) has been prepared and submitted to the Planning Board.

The Project site has been divided into post-development drainage sub-areas and appropriate facilities for the treatment and storage of storm water in accordance with NYSDEC regulations have been developed. These facilities include three Water Quality/Stormwater detention ponds that will capture treat and release stormwater at controlled rates. The Management Report and SWPPP have been reviewed by the engineer for the Town and determined to be adequate and compliant.

With the institution of the proposed storm water management facilities and implementation of the control practices set forth in the Management Report and SWPPP, stormwater generated from the Project will be adequately treated and will successfully reduce post-development peak runoff rates to a level equal or less than that which existed under pre-development conditions. There will therefore be no significant adverse drainage impacts generated by the Project. Moreover, RPA has volunteered to make a payment to the Town in the amount of \$100,000.00 to address pre-existing off-site storm water drainage conditions in and around Union Avenue in the vicinity of the Project. As it currently exists, there is limited stormwater handling capacity in this vicinity. Upgrades to the stormwater facilities in this vicinity will improve stormwater handling conditions downstream of the Project. This commitment is embodied in the already executed Development Agreement between the Town and RPA.

**B. Wetlands Disturbance:**

There are no NYSDEC jurisdictional wetlands on the Project site. There are two wetland areas on the Project site (Wetland A and Wetland B) under the jurisdiction of the United States Army Corps of Engineers ("USACOE"). Wetland A is approximately 2.76 acres in size. Wetland B is approximately 4.03 acres in size. These ACOE wetlands have been delineated and are the subject of an USACOE Jurisdictional Determination issued on July 1, 2004.

Construction activities related to the creation of a single road crossing (a utility crossing) and the installation of one culvert will result in the disturbance of 0.40 acres of Wetland A. There is no proposed disturbance to Wetland B.<sup>2</sup> To address the impacts of the disturbance to Wetland A, RPA has prepared and incorporated in the Project plans mitigation measures whereby RPA will create three on-site mitigation wetlands. Under the wetland mitigation plan, a total of 0.64 acres of forested/open emergent wetlands will be created, and 0.01 acre of open emergent wetlands will be restored within the Project limits. Each mitigation and restoration site will be constructed to facilitate the creation of wetlands with equal functional benefits. With the implementation of the wetlands mitigation plan, no net loss of wetland benefits will occur. RPA has already secured the necessary USACOE Nationwide Permits for the proposed wetland disturbance and has received approval from USACOE for its proposed mitigation plan.

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<sup>2</sup>There is the potential for the future limited disturbance of Wetland B in the event the Town determines to extend Epiphany Drive for an eventual connection to Temple Hill Road. Such extension would not be part of or necessary for this Project.

Moreover both the Planning Board and the USACOE has determined that the Project has been designed in a way where impacts to the wetlands have been minimized. The wetlands disturbances are the result of necessary road and utility crossings and not of encroachment by residential units.

In light of the limited amount of wetlands disturbance and RPA's the mitigation plan and RPA's receipt of the required jurisdictional permits, there will be no adverse impact to on-site wetlands.

C. Sewer and Water Supply and Demand:

1. Sewer:

a) Treatment Capacity:

Sewer capacity issues in the Town of New Windsor have evolved since the PUD approval in 1989. To address these evolving circumstances and the potential impacts of the Project on the Town's sewage treatment system, RPA prepared a "Conceptual Design of Patriot Bluff development Sewer System and an Assessment of its Impact on the Town of New Windsor Sewer System, dated May 15, 2008 ("Sewer Report").

The Sewer Report indicates that the Project will discharge an Average Daily Flow of 53,280 gallons per day into New Windsor's sanitary sewer system. Treatment capacity for this flow is available and has been guaranteed by RPA's purchase in 2003 and 2007 of an allocation of sewage treatment capacity totaling 53,350 gallons per day from Moodna Creek Development Ltd.<sup>3</sup> Prior to connection to the sewage treatment system, the purchase of capacity requires approval from the Towns of Cornwall and New Windsor and engineering design documents must be processed with the NYSDEC for a Municipal Sewer Main Extension.

The engineer for the Town has advised that the sewer treatment capacity calculations contained in the Sewer report are accurate and has confirmed that the capacity purchased from Moodna Creek development, Ltd. is in fact available out of the Town of new Windsor's capacity allocation.

b) Hydraulic Capacity

Wastewater from the project site will be discharged into the existing 12-inch Town sewer main located within an easement on the Continental Manor condominium complex property. The point of connection to this main will be at the easterly extremity of the condominium site, east of condominium building number 28. To accommodate this, a new 8-inch sanitary sewer

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<sup>3</sup>Pursuant to agreements among the Town of New Windsor, Town of Cornwall and Moodna Creek Development, Ltd. land developers in the Town of New Windsor can purchase available treatment capacity in the existing sewage treatment plant up to the Town's allocation limit of 0.95 million gallons per day.

main will be installed within Epiphany Drive, and this main will extend to the west and through the grounds of Continental Manor condominium complex until connecting with the 12-inch main. The new 8-inch will be a Town-owned sewer main.

Because this 12-inch sewer main has experience surcharging problems downstream of the project site, the following mitigation measures will be completed:

- The redirecting of existing wastewater flows within the Town's 12-inch sewer main on the west side of Temple Hill Road into the Town's existing 30-inch sewer main also on the west side of Temple Hill Road.
- The reconstruction of the Town's 12-inch sewer main downstream of the project site on the lands of Lander. This will consist of installing a segment of 12-inch sewer main along the northerly boundary of Lander for the purpose of abandoning 3 existing sewer segments which have a history of surcharging during wet weather.

RPA and the Town have entered into a development agreement where they will cooperate in obtaining the required easements for line installation and processing a Sewer Main Extension application to the NYSDEC. Inasmuch as sufficient treatment capacity has been acquired for the Project and the Project is committed to the installation of the mitigation measures to accommodate its flows, there will be no significant adverse impact to the Town of New Windsor treatment system.

## **2. Water:**

Water capacity issues in the Town of New Windsor have evolved since the PUD approval in 1989. To address these evolving circumstances and the potential impacts of the Project on the Town's water supply system, RPA prepared a "Conceptual Design of Patriot Bluff Development Water Systems and an Assessment of its Impact on the Town of New Windsor Water System, dated May 15, 2008 ("Water Report").

The Water Report indicates that the Project's Average Daily Flow for water will be 53,280 gallons per day. There is more than sufficient water supply resources available to the Town of New Windsor to service the Project. These resources include water from the Catskill Aqueduct tap (Riley Road); water from the Catskill Aqueduct tap (Stewart Airport) and water available through inter-municipal agreements with the Town of Newburgh and City of Newburgh. The engineer for the Town has reviewed the Water report and agrees with its findings and conclusions.

An additional inter-municipal agreement with the City of Newburgh entered into in 2007 will alleviate an existing filtration capacity problem at the Riley Road Water Treatment Plant which has the potential to impede water service for the Project. The Town has also requested and RPA has agreed to provide a payment to the Town in the amount of \$100,000 to upgrade a water pump station at Union Avenue which will aid in the provision of water service to the Project as well as other properties in the Town. The Town and RPA have entered into a Development

Agreement whereby RPA has committed to the payment for the water pump station upgrade and the Town has agreed to permit the Project to connect to the Town water system notwithstanding any moratorium that may be in place and has further agreed to cooperate in any required application for a Water Main Extension to the Orange County Department of Health.

Given the adequate water resources available to the Town, the ability to address the water filtration issue at the Rilely Road Water Treatment Plant through the 2007 inter-municipal agreement with the City of Newburgh and RPA's financial commitment toward upgrade of the water pump station at Union Avenue, there will be no significant adverse impact to the Town's water supply resources.

**D.           Transportation:**

Since approval of the PUD in 1989, traffic conditions in the Town have changed due to the general growth of the area. To address these changed conditions, a traffic impact study ("TIS") entitled "Traffic Impact Study, Patriot Bluff Development, Epiphany Drive, New Windsor New York," dated May 8, 2008 was prepared by John Meyer Consulting.

The TIF analyzed existing and future conditions at the following three intersections deemed to be within the zone of impact of the Project: Union Avenue (CR69) and NY 32; NY 32 and Epiphany Drive and Wall Street and Union Avenue (CR 69) and Park Hill Drive.

**1.       Union Avenue (CR 69) and NY 32:**

This is a signalized intersection. Under the 2008 existing condition the intersection operates at acceptable levels of service during all peak hour periods. In the 2010 No Build Condition the intersection deteriorates to a level of Service E during the weekday peak PM hour and will experience delays. The level of service E condition is maintained for the peak PM hour in the 2010 Project Build Condition with the Project only adding 1.9 seconds of further delay.

The TIS recommends that the traffic signal phasing at this intersection be improved to discontinue the existing split phasing of CR69 and provide a leading eastbound/westbound left turn phase approach followed by a common eastbound/westbound phase. If this improvement is implemented the intersection will operate at acceptable levels of service during all peak traffic hours. The peak PM hour delay would be reduced from 60.4 seconds in the No Build Condition to 41.5 seconds in the Build Condition.

**2.       NY 32 and Epiphany Drive and Wall Street:**

This is an unsignalized intersection. Under the 2008 existing condition the intersection operates at acceptable levels of service during all peak hour periods. In the 2010 No Build Condition the intersection deteriorates to a level of Service F during the weekday peak PM and peak Saturday hours and will experience delays. The level of service F condition is maintained for the peak PM and peak Saturday hours in the 2010 Project Build Condition.

The TIS recommends a traffic signal be installed when required by the NYSDOT at the

intersection to improve traffic operations in the No Build and Build Conditions. With installation of this signal the intersection will operate at acceptable levels of service during all peak hour periods.

3. Union Ave. (CR69) and Park Hill Drive:

This is an unsignalized intersection. This intersection operates at acceptable levels of service during all peak hour periods and will continue to operate at acceptable levels of service for all peak hour periods in both the No Build and Build Conditions. No improvements are recommended

Although the traffic volume generated from the Project will not in and of itself create traffic delays at the Union Avenue (CR 69) and NY 32 and NY 32 and Epiphany Drive and Wall Street intersections, RPA commits to fund and or undertake the recommended traffic improvements subject to and conditioned upon the NYSDOT, which has sole jurisdiction over these intersections authorizing the recommended improvements.

Inasmuch as the Project is not itself creating the traffic delays identified in the TIS and adequate mitigation ,subject to NYSDOT authorization, has been identified and RPA has committed to fund or undertake such mitigation, there will be no significant adverse on traffic conditions as a result of the Project.

E. Schools:

The New Windsor area has undergone significant growth since approval of the PUD in 1989. Therefore, it was necessary to revisit the Project's impact on schools both with respect to the assessment of school capacity and fiscal impacts on the school district. A school impact assessment and fiscal analysis was prepared for the Project.<sup>4</sup>

The Project is located entirely within the Newburgh Enlarged City School District. The Project is projected to generate 43 children attending public schools.<sup>5</sup> The 43 school children will most likely be distributed within the school system as follows: 22 children in the Temple Hill Academy; 11 children in the Heritage Junior High School; 7 children in the Newburgh Free Academy and the remaining children to be located at other schools throughout the system.<sup>6</sup> The school district has been contacted directly and has advised that the additional students generated by the Project can be accommodated and will not create capacity issues that require facility

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<sup>4</sup> An original study entitled "Impact on School Services of the Patriot Estates Subdivision and Patriott Bluff Development Project" was prepared by Stuart Turner & Associates in 2005. The contents of the study was subsequently updated when the project was modified in 2007 and is the basis for the information presented herein.

<sup>5</sup> The number was derived using Census Public Use Microdata Samples (PUMS) analyzed by Rutgers University Center for Urban Policy Research This source is generally accepted as the most recent and widely accepted standard for generating school children.

<sup>6</sup> The Newburgh Enlarged City School District operates a magnet school program where children may elect to go to other magnet schools. Most children in the district however, still attend school closest to home.

upgrades. In these communications it was specifically noted that the Town of New Windsor elementary schools and Heritage Junior High School are more suited to additional enrollment than schools closer to the City.

The fiscal impact analysis prepared to assess the financial impacts of the Project on the school district reveals that the Project will yield a net positive fiscal impact whether the project is in a fee simple or condominium form of ownership. If the Project is in the condominium form of ownership, there will be a projected net fiscal surplus to the school district in the amount of \$252,766.00. If the Project is in the fee-simple form of ownership there will be a projected net fiscal surplus of \$589,542.00. This net fiscal surplus could contribute to a reduction and/or stabilization of taxing rates across the various taxing jurisdictions.

Modification or addition of a school bus route may be necessary to accommodate the school children generated by the Project. Representatives of the school district indicated that such modification or addition would not be significant. In any event, the fiscal surplus to the school district generated by the Project is more than sufficient to offset any cost that may occur as the result of adding or modifying a school bus route.

Given the acknowledgments by school district representatives that there is adequate capacity in the schools to accommodate the school children generated by the Project and that any alteration in bus routes can be accommodated and, given the significant fiscal surplus that will be generated for the school district, the Project will not significantly impact the local school system.

F. Community Character:

The Project is located in an area of predominant residential uses. Surrounding residential communities include an array of single-family detached and attached units. Residential communities in closest proximity to the Project include: the Park Hill Drive Development (individual ranch and bi-level residences predominantly on 1/4 to 1/3 acre lots); San Giacomo Drive (single-family bi-level residences); Maharay Lane (single-family colonial residences); Samantha Court (single-family colonial residences); Continental Manor (two-story brick condominiums) and Windsor Crest (townhouse condominiums).

The Project is consistent with the scale and style of the other similar communities located in the immediate area including Continental Manor, Windsor Crest and the Patriot Ridge development. Along with these other communities, the Project contributes to the diversity of housing types existing in this area of the Town. The Project is also consistent with the Town's Master Plan and Zoning Law.

During the review process, residents of the nearby Park Hill Drive development voiced concern about potential impacts to the character of that neighborhood in the event a full access connection were permitted between the two developments. Specifically, the residents were concerned that additional traffic through the Park Hill Drive development would negatively impact the quiet nature of the community and take away the ability of residents to use Park Hill Drive for recreational purposes such as walking, jogging and biking. To address these concerns, the Project plans prohibit a through-access connection between the two communities. Instead, an

emergency access road with a crash gate has been incorporated into the Project's design which will provide both developments with a secondary means of emergency access on an as-needed basis. In addition, a "buffer-zone" has been established between the two neighborhoods and incorporated into the Project plans. These measures will preserve the current character and use of Park Hill Drive by providing buffer and limiting any interconnection between the communities except in emergency situations.

A portion of the Project has a common boundary with the New Windsor Cantonment. A 50 foot wide conservation easement is located along this boundary to provide buffer between the two uses. The buffer area as it exists is predominantly wooded and will remain so with some minor intrusion for grading purposes. Areas within the 50 foot Conservation easement to be disturbed will be reclaimed and landscaped.

Since the Project is consistent with and enhances the diversity of residential uses in this area of the Town and incorporates specific measures to protect the community character concerns voiced by residents of the Park Hill Drive community, there will be no adverse impacts to community character. Further the proposed conservation easement and buffer along the boundary with the New Windsor Cantonment is sufficient to prevent adverse impact between the two uses. The recommendations set forth in the March 10, 2008 letter from Palisades Interstate Park Commission for possible further enhancement along the common boundary line will be evaluated by the Planning Board at the time of site plan and subdivision approval.

#### **Adoption of Findings and Certification:**

The Planning Board hereby adopts, the Findings Statement issued by the Town Board of the Town of New Windsor on November 15, 1989 establishing the PUD for the Epiphany College Property development project subject to the determinations and findings of this Negative Declaration which determinations and findings shall be deemed incorporated into the Planning Board's adopted Findings and constitute requirements of the Planning Board in connection with the further development of the PUD and Patriot Bluff. The Planning Board certifies that:

1. The requirements of 6NYCRR part 617 have been met; and
2. Consistent with social economic and other essential considerations from among the reasonable alternatives available, the action is one that avoids or minimizes adverse environmental impacts to the maximum extent practicable, and that adverse impacts will be avoided or minimized to the maximum extent practicable by incorporating as conditions to the decision those mitigative measures that were identified as practicable.

**For Further Information:** Genaro Argenio, Planning Board Chairman  
New Windsor Planning Board  
555 Union Avenue  
New Windsor, New York 12553  
(845) 563-4615

**A Copy of this Notice is Sent to:**

New York State Department of Environmental Conservation  
U.S. Army Corps of Engineers  
Orange County Department of Health  
New York State Department of Transportation  
Town of New Windsor Town Board  
NYS Office of Parks, Recreation and Historic Preservation  
Palisades Interstate Park Commission  
Vails Gate Fire Department  
Town of New Windsor Historian  
Town of New Windsor Volunteer Ambulance Corps.  
New Windsor Cantonment State Historic Site.  
RPA Associates, LLC